

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- against -

METRO DATA MANAGEMENT, INC. d/b/a
DATA MARKETING GROUP, LTD.,
KEITHA ROCCO, individually and as an
Officer of Metro Data Management, Inc., and
9097 9394 INFOGEST, QUEBEC INC.
d/b/a INFOGEST DIRECT MARKETING,

Defendants.

CONSENT DECREE AND JUDGMENT

Civil Action No. 14-6791 (SJF)(GRB)

~~FILED~~
~~IN CLERK'S OFFICE~~
~~U.S. DISTRICT COURT E.D.N.Y.~~
★ ~~JUL 23 2015~~ ★
~~LONG ISLAND OFFICE~~

~~FILED~~
~~IN CLERK'S OFFICE~~
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★ JUL 28 2015 ★
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UNITED STATES OF AMERICA,

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- against -

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LONG ISLAND OFFICE

WHEREAS, the United States commenced this action against Defendants Keitha Rocco (“Rocco”) and Metro Data Management, Inc. d/b/a Data Marketing Group, Ltd. (“Metro Data Management”) by filing a complaint in this Court (the “Complaint”), a copy of which is annexed as Exhibit A; and

WHEREAS, the Complaint, whose allegations are incorporated by reference herein, states a claim for relief under the Fraud Injunction Statute, 18 U.S.C. § 1345; and

WHEREAS, on November 19, 2014, having considered the *ex parte* application of the United States, the Court issued a temporary restraining order as to, *inter alia*, Defendants Rocco and Metro Data Management; and

WHEREAS, the United States and Defendants Rocco and Metro Data Management wish to settle this action upon the following terms without further litigation;

WHEREAS, the parties hereby agree to fully and finally settle this matter without any admissions of liability or wrongdoing on the part of Defendants Rocco and Metro Data Management;

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that:

1. Pursuant to 18 U.S.C. § 1345 and the inherent power of this Court:
 - i. Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation with them are jointly and severally permanently enjoined from committing mail fraud, as defined by 18 U.S.C. § 1341;
 - ii. Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation

with them are jointly and severally permanently enjoined from using the United States mails or causing others to use the mails to distribute:

1. any advertisements, solicitations, or promotional materials on behalf of Destiny Research Center, Maria Duval, Patrick Guerin or any other actual or fictional individual or entity purporting to offer psychic, clairvoyant or astrological items or services for a fee;
2. any advertisements, solicitations, or promotional materials that falsely represent, directly or indirectly, expressly or impliedly, that the recipient of the mailing was specifically selected to receive the mailing based on a reason other than the fact that the recipient's name appears on a mailing list;
3. any advertisements, solicitations, or promotional materials that guarantee, directly or indirectly, expressly or impliedly, that services or items offered for purchase will improve the consumer's financial condition;
4. any advertisements, solicitations, or promotional materials that represent, directly or indirectly, expressly or impliedly, that services or items offered for purchase will enable the purchaser to win money through the lottery or other game of chance, or will entitle the purchaser to receive an inheritance or payment; or
5. any other false and misleading advertisements, solicitations, or promotional materials;

- iii. Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation with them are jointly and severally permanently enjoined from receiving or causing to be delivered any incoming mail, at any address anywhere in the United States of America, which is responsive to any advertisements, solicitations, or promotional materials on behalf of Destiny Research Center, Maria Duval, Patrick Guerin or any other actual or fictional individual or entity purporting to offer psychic, clairvoyant or astrological items or services for a fee;
- iv. Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation with them are jointly and severally permanently enjoined from selling, offering for sale, licensing, renting, disclosing or utilizing any lists of consumers or mailing lists of any type, knowing that such lists have been compiled from consumers who have responded to solicitations bearing the names Destiny Research Center, Maria Duval, or Patrick Guerin;
- v. Unless otherwise required to be maintained pursuant to law, Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation with them are ordered to dispose of any lists of consumers or mailing lists of any type compiled from consumers who have responded to solicitations bearing the names Destiny Research Center, Maria Duval, or Patrick Guerin. Disposal shall be by means that protect against unauthorized access to the customer

information, such as by burning or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed. After completing the disposal, Defendants Rocco and Metro Data Management shall provide to Plaintiff a certification, sworn under penalty of perjury, detailing what materials were identified for disposal and in what manner disposal was accomplished, and certifying that Defendants Rocco and Metro Data Management no longer have in their possession any such lists;

- vi. Defendants Rocco and Metro Data Management, their agents, officers, and employees, and all other persons and entities in active concert or participation with them are jointly and severally permanently enjoined from performing “caging services,” including processing direct mail payments and orders, with regard to direct mail solicitations on behalf of Destiny Research Center, Maria Duval, Patrick Guerin or any other actual or fictional individual or entity purporting to offer psychic, clairvoyant or astrological items or services for a fee;
- vii. Defendants Rocco and Metro Data Management hereby relinquish any ownership of any and all US Mail addressed to Destiny Research Center, Maria Duval, or Patrick Guerin and detained by the United States Postal Inspection Service pursuant to the Temporary Restraining Order in this matter. Defendants Rocco and Metro Data Management waive any objection they have or may have had to the United States Postal Inspection Service disposing of this detained US Mail in accordance with applicable law.

Defendants Rocco and Metro Data Management further waive their right to receive service of process and or any other form of notice of disposition of evidence (abandonment), civil administrative or civil judicial forfeiture action initiated by the United States Postal Inspection Service or the United States Government against said US Mail. Defendants Rocco and Metro Data Management further agree not to file a claim or otherwise contest any forfeiture or abandonment proceedings initiated by the United States Postal Inspection Service or the United States Government against said US Mail.

viii. Defendants Rocco and Metro Data Management are ordered to submit to the United States an acknowledgment of receipt of this Order sworn under penalty of perjury.

2. This Consent Decree and Judgment shall not be modified except by the Parties and approved by the Court.

3. This Consent Decree and Judgment shall be governed by the laws of the United States.

4. The Parties agree to bear their own costs and attorneys' fees in this action.

5. This Consent Decree and Judgment contains the entire agreement between the Parties with respect to the subject matter herein. The Parties acknowledge that there are no understandings relating to the settlement other than those expressly contained in this Consent Decree and Judgment.

6. The undersigned signatories each represent that he, she or it is fully authorized to enter into the terms and conditions of this Consent Decree and Judgment and to execute and legally bind to this document the Party which he, she or it represents.

7. Defendants Rocco and Metro Data Management expressly retain and reserve for purposes of any other case or controversy, except such proceedings as may be necessary to enforce the provisions of this order, any defenses that may be available to them with regard to the underlying conduct alleged in the complaint.

8. Defendants Rocco and Metro Data Management hereby agree to waive, release, and remit any and all claims, either directly or indirectly against the United States and its agencies, employees, representatives and agents, including but not limited to the Department of Justice, the United States Postal Inspection Service, and their employees, with respect to this action.

9. This Decree shall constitute a final judgment and order in this action, *United States v. Metro Data Management, Inc., et al.*, Civil Action No. 14-6791 (SJF)(GRB), as to Defendants Rocco and Metro Data Management. However, this Court will retain jurisdiction over the enforcement and interpretation of this Consent Decree and Judgment and to resolve all disputes arising hereunder as may be necessary for the construction and execution of this Consent Decree and Judgment.

IT IS HEREBY AGREED:

THE UNITED STATES OF AMERICA

KELLY T. CURRIE
Acting United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Dated: *6/15/2015*

John Vagelatos 14-cv-6791

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BENJAMIN C. MIZER
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United States Department of Justice

JONATHAN F. OLIN
Deputy Assistant Attorney General

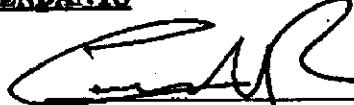
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Consumer Protection Branch

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Dated: *6/15/15*

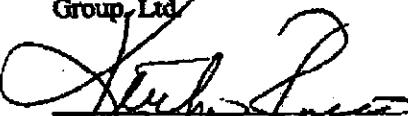
THE DEFENDANTS

Dated: 6/9/15


CARLO M. FUSCO

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Tel. (516) 997-5291
Counsel for Keitha Rocco and Metro Data
Management, Inc. d/b/a Data Marketing
Group, Ltd.

Dated: 6/9/15

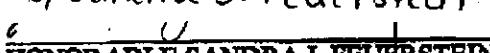

KEITHA ROCCO

Individually, and as an Officer of Metro
Data Management, Inc. d/b/a Data
Marketing Group, Ltd.

There being no just reason for delay, the Clerk of the Court shall enter
a final judgment against defendants Keitha Rocco and Metro Data

SO ORDERED this 23rd day of July, 2015. Management, Inc., d/b/a Data
Marketing Group, Ltd. pursuant
to Fed. R. Civ. P. 54(b).

s/Sandra J. Feuerstein

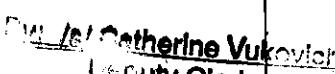

HONORABLE SANDRA J. FEUERSTEIN
UNITED STATES DISTRICT JUDGE

JUDGMENT ENTERED

JUL 28 2015

Date

DOUGLAS C. PALMER
Clerk of Court


Catherine Vukovich
Deputy Clerk